

Page 197
540 So.2d 197
14 Fla. L. Weekly 729
Lola E. HOLLAND, Appellant,

v.

BAGUETTE, INC., a Florida corporation d/b/a La Petite Patisserie and Joseph R. Harrison, Jr.,
Appellees.

No. 88-767.

District Court of Appeal of Florida,
Third District.
March 21, 1989.

Highsmith, Strauss & Glatzer and Neil Rose,
Miami, for appellant.

be resolved, it was error to enter summary
judgment.

Blackwell, Walker, Fascell & Hoehl and
James E. Tribble and Kathleen M. Salyer,

REVERSED.

Page 198

Parenti & Falk and Norman M. Waas, Miami,
for appellees.

Before SCHWARTZ, C.J., and NESBITT
and BASKIN, JJ.

PER CURIAM.

We reverse the final summary judgment entered for the defendants in this trip-and-fall case on the authority of *Liberty Mut. Ins. Co. v. Kimmel*, 465 So.2d 606 (Fla. 3d DCA 1985). First, here as in *Kimmel*, the accident occurred in a public place, not in a private home as in *Schoen v. Gilbert*, 436 So.2d 75 (Fla.1983); consequently, the facts are distinguishable from those of *Schoen*. Second, the affidavit of plaintiff's engineer supported the allegation that the step over which the plaintiff tripped was built in violation of the South Florida Building Code. If proven, this would constitute prima facie evidence of negligence. See *Cadillac Fairview of Fla., Inc. v. Cespedes*, 468 So.2d 417 (Fla. 3d DCA), review denied, 479 So.2d 117 (Fla.1985); *Grand Union Co. v. Rocker*, 454 So.2d 14 (Fla. 3d DCA 1984). Accordingly, because genuine issues of material fact remain to